

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SERGEI KOVALEV	:	CIVIL ACTION
v.	:	
	:	No. 16-6380
	:	
CITY OF PHILADELPHIA, <i>et al.</i>	:	

**ORDER**

AND NOW, this 28<sup>th</sup> day of February 2017, upon consideration of Defendants' Motion to dismiss (ECF Doc. No. 7), *pro se* Plaintiff's Opposition (ECF Doc. No. 8) and for reasons in the accompanying Memorandum, it is **ORDERED** Defendants' Motion (ECF Doc. No. 7) is **GRANTED in part** and **DENIED in part**:

1. We **dismiss with prejudice** Plaintiff's claims for First Amendment retaliation based on qualified immunity to the extent it is based on Defendant Kennedy and Defendant Weiss requesting the sheriffs forcibly remove Mr. Kovalev from the area and discouraging the Board from making a decision (Count III);

2. We **dismiss with prejudice** Plaintiff's claims for Ninth Amendment violations, negligent infliction of emotional distress (Count V), defamation (Count VI) and harassment (Count VIII);

3. We **dismiss without prejudice** Plaintiff's claims for Fourteenth Amendment substantive due process violations against Defendant Brown, Fourteenth Amendment procedural due process violations, Fourteenth Amendment race/ethnicity/national origin discrimination (Count IV), and intentional infliction of emotional distress against Defendant Brown (Count V);

4. We **deny** Defendants' Motion in all other respects and allow Plaintiff to proceed into discovery on his claims for failure to train or supervise (Count I), First Amendment right of

access to public property and public information (Count II), First Amendment retaliation to the extent it is based on Defendant Weiss and Defendant Kennedy issuing the false report (Count III), Fourteenth Amendment substantive due process against Defendant Weiss and Defendant Kennedy, common law assault (Count VII), and intentional infliction of emotional distress against Defendant Weiss and Defendant Kennedy (Count V); and,

5. Defendant shall answer the Complaint no later than **March 14, 2017**.

A handwritten signature in black ink, appearing to be 'Kearney J.', written over a horizontal line.

**KEARNEY, J.**